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COMMISSION ON HUMAN RIGHTS
Intergovernmental working group of experts
on human rights of migrants
Second session
Geneva, 16 - 20 February 1998

INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

Addendum

The present document contains an additional reply received from the International Indian Treaty Council, dated 23 January 1998.

GE.98-10301

INTERNATIONAL INDIAN TREATY COUNCIL

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23 January, 1998

Commission on Human Rights
Working Group on the Human Rights of Migrants
Office of the United Nations High Commissioner for Human Rights
CH-1211, Geneva 10, Switzerland
BY FAX: [011]41-22-917-0111

Re: Commission on Human Rights Resolution entitled "Migrants and Human Rights," Report of the Commission on its fifty-third session, E/1997/23 - E/CN.4/1997/150

Respectful Greetings,

The International Indian Treaty Council (IITC) a Consultative Status II Indigenous Non-Governmental Organization, is honored to respond to the above entitled resolution and request for information on behalf of the Indigenous Alliance Without Borders/Alianza Indigena Sin Fronteras.

The Indigenous Alliance Without Borders/Alianza Indigena Sin Fronteras was formed in 1997, at a meeting in San Javier de Bac, near Tucson, Arizona, USA, by representatives of the Yaqui and Tohono O'odham Peoples by both sides of the United States (US) /Mexico border, and representatives of other North American and Indigenous Peoples and their organizations. Their plan of action includes addressing the human rights issues affecting Indigenous communities along the border.

On behalf of the Indigenous Alliance Without Borders, in response to the invitation to submit information by the Office of the High Commissioner on Human Rights, the IITC submits a report on border Tribes, and specific border incidents from the Tohono O'odham Nation, complied by Mr. Mike Flores, Board Member of the IITC.

The Tohono O'odham Nation is one of four Indigenous nations whose territory is bi-bisected by the United States/Mexico border. The name, Tohono O'odham means "the Desert Peoples."

In 1848, the Treaty of Guadeloupe Hidalgo was signed between the US and Mexico, and later, the US and Mexico entered into the Treaty of Mesilla, also known as the Gadsden Purchase. These two treaties placed the US/Mexico border directly across Tohono O'odham lands, without consultation or even knowledge by the Tohono O'odham Peoples, who have lived on this land since time immemorial.

This arbitrary international boundary has had a great detrimental impact on the Tohono O'odham Peoples. It has separated families, divided ancestral lands; culture and religious ceremonies have been deeply impacted. In the Nation, and individual families, there are now differences in language, culture and ceremonies. Priceless cultural traditions are now being lost.

Even now, because of the militarization of the US/Mexico border, and various operations such as "Operation Gatekkeeper" by the United States Immigration Service, after over 100 years of free migration across the border, the Tohono O'odham Peoples are now being told that they are not free to traverse their own land, to cross the border. The US government announced that it would be placing motion and heat sensors along the entire border.

* Attached as an annex and incorporated by reference to this communication is a report by Mr. M. Flores, of the Tohono O'odham Peoples, documenting specific examples of abuses of his peoples as they cross the border to attend religious ceremonies and comply with tribal and familial responsibilities.

As a result, the Tohono O'odham Peoples and other border Indigenous Nations, have become international migrants on their own land. United States governmental action have imposed obstacles to the full enjoyment of Tohono O'odham human rights, including Universal Declaration of Human Rights, Article 13, Article 18, Article 19, Article 20, Article 27, Article 28, and Article 29, as well as the International Covenant on Civil and Political Rights, ICCPR, particularly Articles 1, and 27.

If you have any questions or comments, please do not hesitate to communicate with us.

For all our relations,

Alberto Saldamando
IITC General Counsel

cc: Andrea Carmen, IITC Executive Director
Mike Flores
Jose Matus, Indigenous Alliance Without Borders

* Available upon request. Also contained in the English original version.

Abuses of Indigenous People of the U.S / Mexico International Border

Report by M. Flores

October 1997

Summery of Abuses and Hardships Of Indigenous Peoples Residing on the Southern U.S. Mexico International Border.

The primary Indigenous people of the Southern border are the traditional Kickapoo, the Tohono O'odham, Yaqui and the Cocopah. All of the Indigenous are autochthonous to thier regions. Because they are indigenous they have significant natural human ties to this land.

This report hopefully will show how this international border, not only through their many border agents have infringed upon the rights of the indigenous, but shall shed light on how this border since it's creation has disrupted the society and culture of the indigenous people. These actions are totally contrary to the people's customs and way of life. A clear violation of a humans right.

Traditional Kickapoo:
September 1997
The traditional Kickapoo are recognized by the U.S. Federal government and have a 125 acre reservation in Maverick County, in the State of Texas. The Kickapoo number about 600 people. They consider the land south of the border as their hunting and ceremonial grounds. They are afforded free passage of the border but since the rebellion in Chiapas the Mexican Government has been more cautious with the Kickapoo. One concern is that prior to the Mayan Rebellion the Kickapoos were allowed to take firearms across the border for hunting purposes, this has been suspended bt the Mexican Government. This makes it hard for the people to live according to their beliefs.

The Cocopah
September 1997
The Cocopah is also recognized by the U.S. federal Government. There are about four (4) thousand members. The ones that are not recognized are the tribal members living across the International border. The reservation is located 13 miles south of Yuma, Arizona and about 12 miles from San Luis, Sonora, Mexico. There are however 4 Pueblos of Cocopah just south of the international border. There were two (2) incidents reported between the Cocopah and the Border agents. The first case occurred in the early 1997 involving a Cocopah woman who resides south of the border who was traveling north to see relatives across the border. At the border gate she had her Mexican Passport seized by the Border agents. No valid reason was given why her passport was seized, she was denied passage and unable to keep her appointments. More importantly her passport was never returned. The other incident (August 1997) involves a Cocopah man also from south of the International Border, but has also lived with his wife and family north of the international border among the Cocopahs of the North. He was stopped by the U.S. police and because the Cocopah man didn't have a drivers license, was considered an illegal alien and deported to Mexico. He was further ordered not to cross the border for a least 3 years.

Tohono O'odham

The Tohono O'odham are a U.S, Federally recognized tribe with a reservation that spans 2.9 million acres of desert in what is known as Southern Arizona. There are about 22 thousand members of the tribe. There are also nine (9) communities of o'odham south of the international border many of them have legally been enrolled into the U.S. recognized tribe. One of the boundaries for the reservation is the international border, extending about 80 miles. This situation has allowed the United States through their agents including the U.S. Military free reign of the entire reservation with impunity. The Tohono O'odham because of such a large population and territorial base have more susceptible to abuses. The following are incidents that have occurred :

Incident #1

1997 On going

o'odham from the Chukut Kuk District one of the eleven district of the Tohono O'odham reservation. They complain to the U. S. Border Patrol supervisor in Casa Grande, Arizona that their agents in their district are believed to be the ones cutting their cattle fences. The o'odham claim that the fences are cut so that the Border patrol can drive their motorcycles through their ranches. This had been an on going problem. The result is not only having to repair the fences but that horses and cattle are lost or stolen. Cattle ranching is source of income and way of life.

Incident # 2

August 1997

An O'odham elder in his 60's along with another o'odham man in his 40's confronted the U. s. Boder Patrol agents on his ranch in the village of Tecolote, 25 miles southwest of Sells, arizona. He informs them that they were trespassing and on his private road and asked them to leave. The two agents then physically confronts the two elder men and throws the man in his 40's to the ground, they then verbally threatened the older man the agents leave the ranch. The ranch is located about eight (8) miles north of the U.S./ Mexico International Border, on the Tohono O'odham reservation.

Incident # 3

A o'odham family in Choulic community, o'odham reservation 20 miles south of the Sells, Arizona. Their home is surrounded by the U.S. Border Patrol at about 10;00 A.M. giving the appearance of a planned raid. The home belongs to a o'odham woman in her 30's. Her mother was visiting that morning and noticed several border patrol vehicles in or near the family compound. After leaving her daughters home she quickly returned to her home which is within short walking distance. The mother immediately notified her husband about the many agents in the area. The husband quickly goes outside and confronts the nearest agent he sees and asked what is going on? They told the husband that they were going to raid the home which belonged to his daughter. The reason why was because the agent said that they had seen many tracks coming from a nearby wash going to the house. The man protested that they were making a mistake and that they shouldn't do that.

Finally, not wanting any harm to his family or damage to their properties he reluctantly told the agents that he would open the house to them and let them go inside, but that this matter would not end there, that he intended to do something about it. The Border Patrols agents after awhile without entering the home pulled back it's agents and left the family compound without further incident.

Incident # 4
February 1995
The U.S. Border Patrol followed a 30 year old o'odham man out of Sells, Arizona going westbound on State highway 86 about 8 miles west of Sells, the agent pull over the o'odham man and asked to see identification. The man shows his tribal I. D. card. The agents the instruct the man to step out of his vehicle and to back of the car. The other agent gets out his K-9 from their vehicle and begins a search of the vehicle but the K-9 refused and after several attempt the K-9 took off into the desert heading north. One of the agents runs after the k-9 and finally brings him back. The agents confused as to why the K-9 wouldn't get into o'odhams' vehicle finally decided to leave without further incident. The man did complain to the agents that they were messing up the interior of his car by repeatedly trying to throw the K-9 into his car.

Incident # 5
May 1995, community El Bajio which is an o'odham community located three miles across the International Border. Approximately 36 miles directly south of Sells, Arizona. O'odham from both side of the border are having a meeting when a squadron of Mexican Military troops show up. They invade the meeting causing terror and fear. They demand to see the identification from members of the o'odham that had gathered. After the o'odham complied the troops left without giving any reason for their invasion of the meeting.

All of the indigenous people living along the U.S. /Mexico International Border are forced to live a lifestyle that is not in compliance with their natural order as indigenous people. As it is among the indigenous people of this particular hemisphere, the natural environment is a significant component to the survival and continuation of a race of people. This cannot be carried out because of the barriers non-indigenous people have created, having no consideration, decency or respect for the first people of the land. The psychological abuse, physical abuse or destruction of property inflicted by the agents of the U. S. and Mexico is part of the overall aggression by governments without a conscious in the eyes of the indigenous. This has caused many of the people to became co-dependent existing only in the abyss of a society, where there is no future.